

## **R E M A R K S**

Applicant has carefully considered the above identified Office Action, and in response thereto is addressing each issue raised by the examiner in the remarks hereinbelow. In this regard, applicant is canceling without prejudice claims 22 - 29; amending claims 1 - 9, 12 and 19; and adding claims 30 - 42.

### **Claim Rejection 35 USC 102(b)**

Applicant has canceled claim 22, 24, 25, 27 and 28; therefore, the rejection concerning these claims is moot. Applicant has amended claim 1 by more precisely reciting that the baffle portion and the container portion are fabricated from a single piece of material. The opposing ends of the container portion are sealed. The at least one inlet and outlet are formed in the container portion. Herold discloses a baffle portion and two container halves fabricated from three different pieces of material. The inlet and outlets of Herold are disclosed going through opposing ends of the container halves. Applicant's device does not locate the at least one inlet or outlet in the opposing ends of the container portion. A prior art reference, under 102 must disclose each and every limitation to reject a claim. Herold does not disclose each and every limitation of claim 1. All claims dependent upon a newly allowable independent claim are also made allowable.

### Claim Rejections 35 USC 103(a)

Applicant has amended claim 12 by reciting that the at least one inlet and outlet are located in the tubular container and not in the ends of the tubular container. Both the Herold patent and the Malkiewicz disclose locating the inlet and outlet in the ends of the muffler container. Further, applicant also recites that the inlet axis of the at least one inlet has an angular relationship to the outlet axis of the at least one outlet. Both the Herold patent and the Malikiewicz patent disclose an inlet axis and an outlet axis that are parallel to each other.

To make a prima facie case of obviousness examiner must meet all three requirements of MPEP 2143:

- 1) There must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings.
- 2) There must be a reasonable expectation of success.
- 3) The prior art reference must teach or suggest all claim limitations.

Even if there is a suggestion or motivation to combine the Herold and Malkiewicz patents, the combination will not provide all limitations of claim 12. There is no reasonable expectation of success, because the combination of Herold and Malkiewicz could not provide all the limitations found in claim 12. The combination of Herold and Malkiewicz do not teach or suggest all claim limitations. Both the Herold patent and the Malkiewicz disclose locating the inlet and outlet in the ends of the muffler container. Both the Herold patent and the Malikiewicz patent

disclose an inlet axis and an outlet axis that are parallel to each other. All claims dependent upon a newly allowable independent claim are also made allowable.

#### C O N C L U S I O N

It is respectfully submitted that applicant has responded in a fully satisfactory manner to all matters at issue in this application, and this application is now in condition for allowance. In this regard, applicant has made every effort to comply with the requirements set forth in this Office Action as well as statutory requirements. Accordingly, applicant respectfully requests that the Examiner enter this amendment, allow the claims, and pass this application on to issue.

Respectfully submitted,



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